IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE TENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1003 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/11/2004 in WP NO : 311 OF 2004 on the file of the High Court.)

Between:

1 D.Haranadha Babu, S/o.D.Rama Durgaiah,
APTRANSCO, Vidyutsouda, Somajiguda, Hyderabad.
2 M.V.Sridhar Rao, S/o.M.Venugopal,
APTRANSCO, Vidyuthsouda,
Somajiguda, Hyderabad.
3 P.Prabhakar Rao, S/o.P.Appa Rao,
APTRANSCO, Vidyutsouda, Somajiguda, Hyderabad.

..... APPELLANTS

AND

1 A.P.Transco, Vidyut Soudha, Somajiguda, Hyderabad, rep.by its

Chairman & Managing Director.
2 Northern Power Distribution Company of A.P.Ltd., Warangal, rep.by

its Chairman & Managing Director.
3 Veeramallu, working as Deputy Secretary, A.P. Northern Power
Distribution Co.Ltd., Warangal District.
4 Smt.A.Radha Jayasri, W/o.
A.P.Southern Power Distribution Co.Ltd., Tirupathi, Chittoor District.
5 A.P.Southern Power Distribution Co.Ltd., Tirupathi, Chittoor District

rep.by its Chairman & Managing Director.

.....RESPONDENTS

Counsel for the Appellants:MR.K.VASUDEVA REDDY
Counsel for the Respondent No.1: MR.G.VIDYASAGAR
Counsel for Respondents No.2 to 5: Mr. S. Ravindranath

The Court made the following

JUDGMENT: (per the Hon'ble Smt. Justice T. Meena Kumari)

The writ appeal is directed against the Order of the learned single Judge, dated 30.11.2004, in W.P.No.311 of 2004.

The appellants and some others are working as personnel officers in A.P. TRANSCO, Vidyut Soudha, Somajiguda, Hyderabad, the first respondent herein. The Government of Andhra Pradesh enacted A.P. Electricity Reforms Act, 1998 to restructure the Electricity industry, to rationalize generation, transmission, distribution and supply of electricity avenues and for participation of private sectors in the industry. To dispel the apprehensions of the employees working in the erstwhile A.P.State Electricity Board (for short 'the Board'), and to safeguard their interests, a Tripartite Agreement, dated 25.04.1998, was entered into between the Board and A.P.State Electricity Board Secretariat (P&G Services) Employees Association. According to which, the erstwhile APSEB was divided into four DISCOMs, AP GENCO & AP TRANSCO. Thereafter, the first respondent issued a Circular, dated 2704.2002, calling upon its employees to exercise their options to any of the companies in the order of preference. The appellants and others have exercised their option in favour of the first respondent and they have been allotted to the first respondent-corporation. Subsequently, the official respondents invented a novel method and issued a separate notification, dated 10.07.2002, in Eenadu, facilitating the employees to submit their revised options once again. Pursuant to the said notification, the promotions in the respective companies were taken into account on 31.03.2003 to accommodate several personnel in other DISCOMs affecting the promotional avenues of the petitioners. Consideration of options of certain personnel pursuant to their revised options in placing them against the sanctioned strength is causing immense loss to them. As a result of

which, junior most employees were allotted to distribution companies and they got promotions, ignoring the claims of eligible senior most officers as per the combined seniority list of erstwhile Board. The said action of the respondents in considering the revised options is contrary to the tripartite agreement. It is stated that the appellants are also entitled to promotion on par with their juniors in other distribution companies. Hence they filed the writ petition.

The learned Single Judge, after an elaborate discussion, held that the appellants are not entitled either for retention or for consideration of their revised options to allow them in other companies other than the company to which they were allotted as per the criteria based on the first preference exercised by them and dismissed the writ petition, through the Order under appeal. Aggrieved by the said order, the appellants preferred this appeal.

Heard the learned counsel.

During the course of arguments, it is brought to our notice that in pursuance of the interim orders passed by this Court, final orders as to the rejection of promotions have been passed by the AP Transco on 17.08.2002. However, the learned counsel for the appellants has sought to argue before this Court that even though the said orders have not been questioned, the appellants herein have got every right to seek protection to the post of personal officer in view of the fact that the respondent-corporation has sought to permit his own employees in pursuance of the seniority list and the appellants herein are working in pursuance of their options. It has been contended that as per the covenant 4(b) and 4(k) of the Tripartite agreement, they are entitled to the promotion by the existing regulations/Service rules. Hence, the observation of the learned Single Judge that there is no regulation as such will not hold good.

According to 4 (b) of the Tripartite agreement, the terms and conditions of service upon transfer to the corporate entities, such as promotions, transfers, leave and allowance etc., regulated by existing regulations/service rules in vogue will be guaranteed to continue to be the same and any modifications shall be by mutual negotiations and settlement without detriment to the existing benefits.

The reading of 4(k) goes to show that the employees will be continued on

“as-is where-is” basis, but their services would be maintained at the main successor entity and they would be treated as being on deputation to the other successor entities. The period of Tripartite agreement shall not exceed five years and the same was said to be altered by mutual consent and during the said period, options of the employees will be sought for their absorption.

At this stage, it is brought to the notice of this Court by both the learned counsel that the transit period as stipulated under 4 (k) of the Tripartite agreement, was over. No material has been placed before this Court to show as to whether the transit period has been altered by mutual consent.

It is further brought to the notice of this Court that the appellants have been absorbed into the respective companies, more so, in the first respondent company. In view of the fact that the options have been exercised and they became the employees of TRANSCO, we do not find any force in the argument of the counsel that they should be given the promotions in pursuance of their seniority in the A.P.S.E.B.

We have perused the material available on record and the order impugned.

As a matter of fact, the entire case of the appellants solely rests on 4 (b) and 4 (k) of the Tripartite agreement. There is no dispute that the covenants under the Tripartite agreement will be in force only during the course of the period of transition. It is fairly brought to the notice of this Court that the said period of transition was already over. No material has been produced before this Court to show as to whether such period has been altered through a mutual consent.

In view of the fact that the appellants have become the employees of the TRASNSCO by absorption, by exercising their option, and in view of the admitted fact that the period of transition was already over and in the absence of any material as to the alteration or extension of the period of transition with the mutual consent, We have no hesitation to hold that the appellants cannot make their claim by relying on 4(b) and 4(k) of the Tripartite agreement, which has already become defunct due to efflux of time.

At this stage, it is also brought to the notice of this Court that a final

order has been passed by the respondent, rejecting the promotions on 03.06.2004 and the same remained unquestioned till today and as a consequence of which, the same has become final.

In view of the same and in view of the expiry of the transition period of the agreement and keeping in view the jurisdictional limitations for the review of the administrative decisions, as rightly pointed out by the learned single Judge, We see no merits to entertain this appeal and accordingly, the same is liable to be dismissed.

In the result, the writ appeal is dismissed. There shall be no order as to costs.

10.06.2005

ksld

To

1. The Chairman & Managing Director,

A.P. Transco, Vidyut Soudha, Somajiguda, Hyderabad,

2 The Chairman & Managing Director, Northern Power Distribution

Company of A.P.Ltd., Warangal.

3 Veeramallu, working as Deputy Secretary, A.P. Northern Power Distribution Co.Ltd., Warangal District.

4 The Chairman & Managing Director, A.P.Southern Power

Distribution Co.Ltd., Tirupathi, Chittoor District

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